

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

REVEREND WESLEY CARROLL,

Plaintiff,

09cv1465

ELECTRONICALLY FILED

v.

ROBERT V. BARTH, ET AL.,

Defendants.

**ORDER OF COURT OVERRULING
PLAINTIFF'S OBJECTIONS (DOC. NO. 5) AND
ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION (DOC. NO. 3)**

AND NOW, this 16th day of February, 2010, after careful consideration of the Report and Recommendation ("R&R") of United States Magistrate Judge Amy Reynolds Hay (Doc. No. 3), plaintiff Reverend Wesley Carroll's objections thereto (Doc. No. 5), and the pleadings and filings in this case and in plaintiff's previous action seeking a writ of mandamus at Civil Action No. 07-1707, the Court adopts the R&R in its entirety and will overrule plaintiff's objections and dismiss his petition for writ of mandamus pre-service pursuant to the Court's inherent power to control its own dockets.

Specifically, the instant petition is repetitious of his prior mandamus petition which this Court dismissed as frivolous on February 14, 2008, which dismissal was affirmed by the United States Court of Appeals for the Third Circuit on April 8, 2008. *In re Carroll*, 272 Fed.Appx. 148 (3d Cir. 2008). "Repetitious litigation of virtually identical causes of action may be dismissed . . . as frivolous or malicious." *McWilliams v. Colorado*, 121 F.3d 573, 574 (10th Cir. 1997) (quotation marks and alteration omitted). Here, the instant mandamus petition is clearly repetitious of the earlier mandamus petition, with Carroll again naming the Clerk of this Court

and again accusing the Clerk of not filing Prisoner Carroll's many filings.

Additionally, the current petition should likewise be dismissed as frivolous, being unsupported by anything other than bald assertions and as being clearly contradicted by the dockets of this Court, which reflect a steady stream of filings by Prisoner Carroll.

Accordingly, IT IS HEREBY ORDERED that the Court adopts the R&R (Doc. No. 3) in its entirety, overrules plaintiff's objections (Doc. No. 5), and dismisses the petition for writ of mandamus (Doc. No. 1). IT IS FURTHER ORDERED that Plaintiff's Omnibus Motion and his other pending miscellaneous pretrial motions (Docs. No. 9, 4, 5, 6 and 7, respectively) seeking a variety of litigation related requests are HEREBY DENIED as moot.

s/ Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: All Registered ECF Counsel and Parties

The Honorable Amy Reynolds Hay
United States Magistrate Judge

Reverend Wesley Carroll
GE-8666
P.O. Box 256
Waymart, PA 18472